

ENTERED

December 10, 2019

David J. Bradley, Clerk

• UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ARCHIE J GAYLE,

Plaintiff,

VS.

HOUSTON POLICE DEPARTMENT

and

HPD TACTICAL OFFICERS,

Defendants.

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CIVIL ACTION NO. 4:19-CV-4039

ORDER OF DISMISSAL

Plaintiff Archie J. Gayle filed a *pro se* civil rights complaint on October 15, 2019. On October 21, 2019, the Clerk's office issued a notice of deficient pleading, noting that Gayle failed to pay the filing fee or file a properly supported motion for leave to proceed *in forma pauperis*. Gayle was ordered to so move or pay the filing fee by November 20, 2019. The order specifically warned Gayle that failure to comply could result in dismissal for failure to prosecute. Gayle has not yet complied with the order.

A district court may *sua sponte* dismiss a lawsuit for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1190 (5th Cir.1992). "This authority is based on the 'courts' power to manage and administer their own affairs to ensure the orderly and expeditious disposition of cases.'" *Id.* at 1190–91 (quoting *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962)).

Gayle's failure to comply with the notice of deficient pleading forces the court to conclude that he lacks diligence in prosecuting this action. Therefore, under the court's inherent power to manage its docket, this court concludes that dismissal for want of prosecution is appropriate. All other pending motions are DENIED AS MOOT. Gayle is advised, however,

that relief from this order may be obtained under Federal Rule of Civil Procedure 60(b) upon a proper showing. Accordingly, it is ORDERED that this case is dismissed without prejudice for want of prosecution.

It is so ORDERED.

SIGNED on this 9th day of December, 2019.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge